

## REMARKS

In the Official Action mailed on **26 September 2006**, the Examiner reviewed claims 1-24. Claims 9-24 were rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Claims 1-24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Beck et al (USPub 2002/0049963, hereinafter “Beck”), in view of Almy et al (USPN 6,609,216, hereinafter “Almy”).

### Rejections under 35 U.S.C. §101

Claims 9-24 were rejected because the claimed invention is directed to non-statutory subject matter.

Applicant has amended claim 9 to limit the computer-readable storage medium to tangible embodiments. Claims 17-24 have been canceled without prejudice.

### Rejections under 35 U.S.C. §103(a)

Independent claims 1 and 9 were rejected as being unpatentable over Beck in view of Almy. Applicant respectfully points out that the combined system of Beck and Almy teaches preloading the instrumentation code into a class **before the software is executed** by the virtual machine (see Beck, paragraph [0036]).

In contrast, the present invention provides the user the ability to select the instrumented code during runtime (see FIG. 6, and paragraphs [0116]-[0118] of the instant application). This is beneficial because it provide a user the ability to select classes to examine while the application is running. There is nothing within Beck or Almy, either explicit or implicit, which suggests providing the user the ability to select the instrumented code during runtime.

Accordingly, Applicant has amended independent claims 1 and 9 to clarify that the present invention provides the user the ability to select the instrumented


code during runtime. These amendments find support in FIG. 6, and in paragraphs [0116]-[0118] of the instant application.

Hence, Applicant respectfully submits that independent claims 1 and 9 as presently amended are in condition for allowance. Applicant also submits that claims 2-8, which depend upon claim 1, and claims 10-16, which depend upon claim 9, are for the same reasons in condition for allowance and for reasons of the unique combinations recited in such claims.

**CONCLUSION**

It is submitted that the present application is presently in form for allowance. Such action is respectfully requested.

Respectfully submitted,

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